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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,721	08/15/2001	Max Douglas Oylar	9D-DW-19866	1672

7590 07/27/2006

John S. Beulick
Armstrong Teasdale LLP
One Metropolitan Sq., Suite 2600
St. Louis, MO 63102

EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/930,721	Applicant(s) OYLER ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,10-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) 14, 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7,8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings were received on May 3, 2006. These drawings are approved for examination purposes by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-5, 7, 8 & 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts [U.S. Des. 421,162] in view of Benoit [U.S. Patent No. 3,098,686]. Roberts (figures 1-6) teaches of a unitary outer door panel (fig. 1) for an appliance door assembly, the outer door panel having a longitudinal axis (top to bottom) and comprising: a frame (viewed as edges of the outer door panel as shown in fig. 3) comprising opposite lateral sides, a top edge, and a bottom edge; an outer surface (curved or bowed surface as shown in figs. 1-2 for example) extending from the frame, the outer surface outwardly curved between the lateral sides (clearly depicted), the outwardly curved outer surface extending from the top to the bottom edges (clearly depicted); and a recessed "control mounting surface" (shown as the top middle recessed surface – fig. 3 and further identified as the indentation on the front surface in the flared top as depicted in fig. 6) extending inwardly from the outer surface between the lateral sides as readily apparent to the examiner, the recessed control mounting surface positioned a distance from the top edge (fig. 3) such that a portion of the outer

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surface extends between the control mounting surface and the top edge of the frame as clearly depicted. As to claim 3, the appliance door assembly is a dishwasher door assembly (note description), wherein the door panel defining a control panel cutout (cutout or opening in the front surface of the door panel) as readily apparent to the examiner, wherein the mounting surface received within the cutout in as much as applicant depicts the claimed recitation. As to claims 8, 10 & 11, Roberts teaches applicant's inventive structure substantially as claimed including the frame and outer surface being formed as a single piece, i.e., forming a unitary outer door panel, as readily apparent to the examiner, and the mounting surface being surrounded by the outer surface. Roberts teaches applicant's inventive claimed concept as structurally disclosed above, but does not specifically show the mounting surface as having a bottom side and inwardly curved upward from the bottom side. Benoit is cited as an evidence reference to show that it was known at the time the invention was made to utilize an inwardly curved mounting surface (fig. 2) within the front panel of a closing device (10). As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate an inwardly and upwardly extending mounting surface (40) as taught by Benoit to the mounting surface of Roberts since Robert's device would inherently utilize the same structural feature due to the similar use of the intended element, and the curved feature would permit easy hand manipulation without protruding from the panel's exterior due to the recessed configuration thereby providing a smooth and attractive appearance. Additionally, Roberts teaches applicant's inventive claimed structure; but does not disclose the type of materials used in manufacturing components of the door panel. However, it would have been obvious to one having ordinary skill in the art at

the time the invention was made to vary the type of materials utilized in manufacturing the door panel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious personal preference. Furthermore, since the type of material utilized does not exhibit any new or unobvious functional relationship to the structure itself, it is viewed that the material will not distinguish the invention from the prior art in terms of patentability.

Response to Arguments

4. Applicant's arguments filed May 3, 2006 have been fully considered but they are not persuasive. In response to applicant's remarks concerning the mounting surface, note the following. The position is taken that Roberts does depict the claimed feature as structurally recited. Robert's "mounting surface" is essentially the rear surface of the implicit handle means as depicted in the figures. The handle means inherently being recessed (as evidenced in figure 6 where the notch in the middle of the out-turned front portion designates the recessed structure) within the panel and having a forward lip on the front side so as to allow a user to gain a finger hold on the panel for movement purposes. Benoit is cited as evidence to show that handle pulls are shaped so as to accept a user's fingers for grasping a member (door or drawer) to be opened or closed. It is noted that no other structural or functional limitations have been linked to the "control mounting surface" and as such, it is viewed that the cited references disclose the generic claimed feature as presently put forth.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

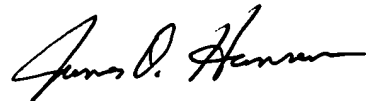
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
July 24, 2006



Applicant: Max Douglas Oyler et al.; Serial No.: 09/930,721
Atty Dkt. No.: 9D-DW-19866
Title: DISHWASHER DOOR ASSEMBLY
John S. Beulick, Armstrong Teasdale LLP, One Metropolitan Square,
Suite 2600, St. Louis, MO 63102; (314) 621-5070

Replacement Sheet

3/8

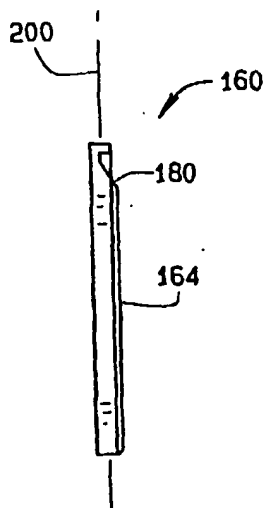


FIG. 4

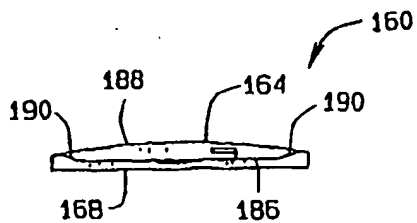


FIG. 5

*Approved for examination purposes
7/21/06 JCH*